

**§ 42.2 Aliens not required to present passports.**

An immigrant within any of the following categories is not required to present a passport in applying for an immigrant visa:

(a) *Certain relatives of U.S. citizens.* An alien who is the spouse, unmarried son or daughter, or parent, of a U.S. citizen, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(b) *Returning aliens previously lawfully admitted for permanent residence.* An alien previously lawfully admitted for permanent residence who is returning from a temporary visit abroad, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(c) *Certain relatives of aliens lawfully admitted for permanent residence.* An alien who is the spouse, unmarried son or daughter, or parent of an alien lawfully admitted for permanent residence, unless the alien is applying for a visa in the country of which the applicant is a national and the possession of a passport is required for departure.

(d) *Stateless persons.* An alien who is a stateless person, and accompanying spouse and unmarried son or daughter.

(e) *Nationals of Communist-controlled countries.* An alien who is a national of a Communist-controlled country and who is unable to obtain a passport from the government of that country, and

accompanying spouse and unmarried son or daughter.

(f) *Alien members of U.S. Armed Forces.* An alien who is a member of the U.S. Armed Forces.

(g) *Beneficiaries of individual waivers.* (1) An alien who would be within one of the categories described in paragraphs (a) through (d) of this section except that the alien is applying for a visa in a country of which the applicant is a national and possession of a passport is required for departure, in whose case the passport requirement has been waived by the Secretary of State, as evidenced by a specific instruction from the Department.

(2) An alien unable to obtain a passport and not within any of the foregoing categories, in whose case the passport requirement imposed by § 42.64(b) or by INS regulations has been waived by the Attorney General and the Secretary of State as evidenced by a specific instruction from the Department.

[52 FR 42613, Nov. 5, 1987, as amended at 56 FR 49680, Oct. 1, 1991]

**Subpart B—Classification and Foreign State Chargeability**

**§ 42.11 Classification symbols.**

A visa issued to an immigrant alien within one of the classes described below shall bear an appropriate visa symbol to show the classification of the alien.

IMMIGRANTS

Symbol	Class	Section of law
<b>Immediate Relatives</b>		
IR1 .....	Spouse of U.S. Citizen .....	201(b).
IR2 .....	Child of U.S. Citizen .....	201(b).
IR3 .....	Orphan Adopted Abroad by U.S. Citizen .....	201(b).
IR4 .....	Orphan Adopted Abroad by U.S. Citizen .....	201(b).
IR5 .....	Parent of U.S. Citizen at Least 21 Years of Age .....	201(b).
CR1 .....	Spouse of U.S. Citizen (Conditional Status) .....	201(b) & 216(a)(1).
CR2 .....	Child of U.S. Citizen (Conditional Status) .....	201(b) & 216.
IW1 .....	Certain Spouses of Deceased U.S. Citizens .....	201(b).
IW2 .....	Child of IW1 .....	201(b).
IB1 .....	Self-petition Spouse of U.S. Citizen .....	204(a)(1)(A)(iii).
IB2 .....	Self-petition child of U.S. Citizen .....	204(a)(1)(A)(iv).
IB3 .....	Child of IB1 .....	204(a)(1)(A)(iii).
VI5 .....	Parent of U.S. Citizen Who Acquired Permanent Resident Status Under the Virgin Islands Nonimmigrant Alien Adjustment Act.	201(b) & sec. 2 of the Virgin Islands, Nonimmigrant Alien, Adjustment Act, (P.L. 97-271).

IMMIGRANTS—Continued

Symbol	Class	Section of law
<b>Vietnam Amerasian Immigrants</b>		
AM1 .....	Vietnam Amerasian Principal .....	584(b)(1)(A), 584(b)(1)(B), and 584(b)(1)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (As contained in section 101(e) of Public Law 100–102 as amended).
AM2 .....	Spouse or Child of AM1 .....	
AM3 .....	Natural Mother of Unmarried AM1 (Spouse or Child of Such Mother) or Person Who has Acted in Effect as the Mother, Father, or Next-of-Kin of Unmarried AM1 (and Spouse or Child of Such Person).	
<b>Special Immigrants</b>		
SB1 .....	Returning Resident .....	101(a)(27)(A).
SC1 .....	Person Who Lost U.S. Citizenship by Marriage .....	101(a)(27)(B) & 324(a).
SC2 .....	Person Who Lost U.S. Citizenship by Serving in Foreign Armed Forces	101(a)(27)(B) & 327.
<b>Family-Sponsored Preferences</b>		
<b>Family 1st Preference</b>		
F11 .....	Unmarried Son or Daughter of U.S. Citizen .....	203(a)(1).
F12 .....	Child of F11 .....	203(d).
B11 .....	Self-petition Unmarried Son or Daughter of U.S. Citizen .....	204(a)(1)(A)(iv) & 203(a)(1).
B12 .....	Child of B11 .....	203(d).
<b>Family 2nd Preference (Subject to Country Limitations)</b>		
F21 .....	Spouse of Alien Resident .....	203(a)(2)(A).
F22 .....	Child of Alien Resident .....	203(a)(2)(A).
F23 .....	Child of F21 or F22 .....	203(d).
F24 .....	Unmarried Son or Daughter of Alien Resident .....	203(a)(2)(B).
F25 .....	Child of F24 .....	203(d).
C21 .....	Spouse of Alien Resident (Conditional) .....	203(a)(2)(A) & 216.
C22 .....	Child of Alien Resident (Conditional) .....	202(a)(2)(A) & 216.
C23 .....	Child of C21 or C22 (Conditional) .....	203(d) & 216.
C24 .....	Unmarried Son or Daughter of Alien Resident (Conditional) .....	203(a)(2)(B) & 216.
C25 .....	Child of F24 (Conditional) .....	203(d) & 216.
B21 .....	Self-petition Spouse of Lawful Permanent Resident .....	204(a)(1)(B)(ii).
B22 .....	Self-petition Child of Lawful Permanent Resident .....	204(a)(1)(B)(iii).
B23 .....	Child of B21 or B22 .....	204(a)(1)(B)(ii).
B24 .....	Self-petition Unmarried Son or Daughter of Lawful Permanent Resident	203(d).
B25 .....	Child of B24 .....	203(d).
<b>Family 2nd Preference (Exempt from Country Limitations)</b>		
FX1 .....	Spouse of Alien Resident .....	202(a)(4)(A) & 203(a)(2)(A).
FX2 .....	Child of Alien Resident .....	202(a)(4)(A) & 203(a)(2)(A).
FX3 .....	Child of FX1 and FX2 .....	202(a)(4)(A) & 203(d) 203(a)(2)(A).
CX1 .....	Spouse of Alien Resident (Conditional) .....	202(a)(4)(A) & 216.
CX2 .....	Child of Alien Resident (Conditional) .....	202(a)(4)(A) & 216.
CX3 .....	Child of CX1 & CX2 (Conditional) .....	202(a)(4)(A) & 203(d) & 216.
BX1 .....	Self-petition Spouse of Lawful Permanent Resident .....	204(a)(1)(B)(ii).
BX2 .....	Self-petition Child of Lawful Permanent Resident .....	204(a)(1)(B)(iii).
BX3 .....	Child of BX1 or BX2 .....	203(d).
<b>Family 3rd Preference</b>		
F31 .....	Married Son or Daughter of U.S. Citizen .....	203(a)(3).
F32 .....	Spouse of F31 .....	203(d).
F33 .....	Child of F31 .....	302(d).
C31 .....	Married Son or Daughter of U.S. Citizen (Conditional) .....	216(a)(1).
C32 .....	Spouse of C31 (Conditional) .....	203(d) & 216.
C33 .....	Child of C31 (Conditional) .....	203(d) & 216.
B31 .....	Self-petition Married Son or Daughter of U.S. Citizen .....	204(a)(1)(A)(iv) & 203(a)(3).
B32 .....	Spouse of B31 .....	203(d).
B33 .....	Child of B31 .....	203(d).
<b>Family 4th Preference</b>		
F41 .....	Brother or Sister of U.S. Citizen .....	203(a)(4).

IMMIGRANTS—Continued

Symbol	Class	Section of law
F42 .....	Spouse of F41 .....	203(d).
F43 .....	Child of F41 .....	203(d).
<b>Employment-Based Preferences</b>		
<b>Employment 1st Preference (Priority Workers)</b>		
E11 .....	Alien with Extraordinary Ability .....	203(b)(1)(A).
E12 .....	Outstanding Professor or Researcher .....	203(b)(1)(B).
E13 .....	Multinational Executive or Manager .....	203(b)(1)(C).
E14 .....	Spouse of E11, E12, or E13 .....	203(d).
E15 .....	Child of E11, E12, or E13 .....	203(d).
<b>Employment 2nd Preference (Professionals Holding Advanced Degrees or Persons of Exceptional Ability)</b>		
E21 .....	Professional Holding Advanced Degree or of Exceptional Ability .....	203(b)(2).
E22 .....	Spouse of E21 .....	203(d).
E23 .....	Child of E21 .....	203(d).
<b>Employment 3rd Preference (Skilled Workers, Professionals, and Other Workers)</b>		
E31 .....	Skilled Worker .....	203(b)(3)(A)(i).
E32 .....	Professional Holding Baccalaureate Degree .....	203(b)(3)(A)(ii).
E34 .....	Spouse of E31 or E32 .....	203(d).
E35 .....	Child of E31 or E32 .....	203(d).
EW3 .....	Other Worker (Subgroup Numerical Limit) .....	203(b)(3)(A)(iii).
EW4 .....	Spouse of EW3 .....	203(d).
EW5 .....	Child of EW3 .....	203(d).
<b>Employment 4th Preference (Certain Special Immigrants)</b>		
BC1 .....	Broadcaster in the U.S. employed by the International Broadcasting Bureau of the Broadcasting Board of Governors or a grantee of such organization.	101(a)(27)(M)
BC2 .....	Accompanying spouse of a BC1 .....	101(a)(27)(M)
BC3 .....	Accompanying child of a BC1 .....	101(a)(27)(M)
SD1 .....	Minister of Religion .....	101(a)(27)(C) & 203(b)(4).
SD2 .....	Spouse of SD1 .....	101(a)(27)(C) & 203(b)(4).
SD3 .....	Child of SD1 .....	101(a)(27)(C) & 203(b)(4).
SE1 .....	Certain Employees or Former Employees of the U.S. Government Abroad.	101(a)(27)(D).
SE2 .....	Spouse of SE1 .....	101(a)(27)(D).
SE3 .....	Child of SE1 .....	101(a)(27)(D).
SEH .....	Employee of the Mission in Hong Kong or Immediate Family .....	101(a)(27)(D) & Section 152 of the Immigration Act of 1990.
SF1 .....	Certain Former Employees of the Panama Canal Company or Canal Zone Government.	101(a)(27)(E).
SF2 .....	Spouse or Child of SF1 .....	101(a)(27)(E).
SG1 .....	Certain Former Employees of the U.S. Government in the Panama Canal Zone.	101(a)(27)(F).
SG2 .....	Spouse or Child of SG1 .....	101(a)(27)(F).
SH1 .....	Certain Former Employees of the Panama Canal Company or Canal Zone Government on April 1, 1979.	101(a)(27)(G).
SH2 .....	Spouse or Child of SH1 .....	101(a)(27)(G).
SJ1 .....	Certain Foreign Medical Graduates (Adjustments Only) .....	101(a)(27)(H).
SJ2 .....	Accompanying Spouse or Child of SJ1 .....	101(a)(27)(H).
SK1 .....	Certain Retired International Organization employees .....	101(a)(27)(I)(iii)
SK2 .....	Spouse of SK1 .....	101(a)(27)(I)(iv) & 101(a)(27)(L).
SK3 .....	Certain Unmarried Sons or Daughters of an International Organization Employee.	101(a)(27)(I)(i) & 101(a)(27)(L).
SK4 .....	Certain Spouses of a deceased International Organization Employee ...	101(a)(27)(I)(ii) & 101(a)(27)(L).
SL1 .....	Juvenile Court Dependent .....	101(a)(27)(J).
SM1 .....	Alien Recruited Outside the United States Who Has Served or is Enlisted to Serve in the U.S. Armed Forces for 12 Years (Became Eligible After the Date of Enactment)..	101(a)(27)(K).
SM2 .....	Spouse of SM1 .....	101(a)(27)(K).
SM3 .....	Child of SM1 .....	101(a)(27)(K).
SM4 .....	Alien Recruited Outside the United States Who Has Served or is Enlisted to Serve in the U.S. Armed Forces for 12 Years (Became Eligible As of the Date of Enactment).	101(a)(27)(K).
SM5 .....	Spouse or Child of SM4 .....	101(a)(27)(K).

IMMIGRANTS—Continued

Symbol	Class	Section of law
SN1 .....	Certain retired NATO6 civilians .....	101(a)(27)(L)
SN2 .....	Spouse of an immigrant classified SN1 .....	101(a)(27)(L)
SN3 .....	Certain unmarried sons or daughters of NATO6 civilian employees .....	101(a)(27)(L)
SN4 .....	Certain surviving spouses of deceased NATO–6 civilian employees .....	101(a)(27)(L)
SP .....	Alien Beneficiary of a petition or labor certification application filed prior to September 11, 2001, if the petition or application was rendered void due to a terrorist act of September 11, 2001. Spouse, child of such alien, or the grandparent of a child orphaned by a terrorist act of September 11, 2001.	Section 421 of Public Law 107–56.
SR1 .....	Certain Religious Workers .....	101(a)(27)(C)(ii)(II) & (III).
SR2 .....	Spouse of SR1 .....	101(a)(27)(C)(ii)(II) & (III).
SR3 .....	Child of SR1 .....	101(a)(27)(C)(ii)(II) & (III).
<b>Employment 5th Preference (Employment Reaction Conditional Status)</b>		
C51 .....	Employment Creation <i>OUTSIDE</i> Targeted Areas .....	203(b)(5)(A).
C52 .....	Spouse of C51 .....	203(d).
C53 .....	Child of C51 .....	203(d).
T51 .....	Employment Creation <i>IN</i> Targeted Rural/High Unemployment Area .....	203(b)(5)(B).
T52 .....	Spouse of T51 .....	203(d).
T53 .....	Child of T51 .....	203(d).
R51 .....	Investor Pilot Program, Not in Targeted Area .....	203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (P.L. 102–395)
<b>Other Numerically Limited Categories</b>		
<b>Diversity Immigrants (Beginning in FY 1995)</b>		
DV1 .....	Diversity Immigrant .....	Section 203(c).
DV2 .....	Spouse of DV1 .....	Section 203(c).
DV3 .....	Child of DV1 .....	Section 203(c).
<b>Diversity Transition for Natives of Certain Adversely Affected Foreign States (Fiscal Years 1992–1995)</b>		
AA1 .....	Diversity Transition Immigration .....	Section 132 of the Immigration Act of 1990.
AA2 .....	Spouse of AA1 .....	Section 132 of the Immigration Act of 1990.
AA3 .....	Child of AA1 .....	Section 132 of the Immigration Act of 1990.

[60 FR 10499, Feb. 27, 1995, as amended at 62 FR 614, Jan. 6, 1997; 65 FR 20904, Apr. 19, 2000; 66 FR 32742, June 18, 2001; 66 FR 38154, July 23, 2001; 67 FR 55320, Aug. 29, 2002; 67 FR 70839, Nov. 27, 2002]

**§ 42.12 Rules of chargeability.**

(a) *Applicability.* An immigrant shall be charged to the numerical limitation for the foreign state or dependent area of birth, unless the case falls within one of the exceptions to the general rule of chargeability provided by INA 202(b) and paragraphs (b) through (e) of this section to prevent the separation of families or the alien is classifiable under:

- (1) INA 201(b);
- (2) INA 101(a)(27) (A) or (B);
- (3) Section 112 of Public Law 101–649;
- (4) Section 124 of Public Law 101–649;

- (5) Section 132 of Public Law 101–649;
  - (6) Section 134 of Public Law 101–649;
- or
- (7) Section 584(b)(1) as contained in section 101(e) of Public Law 100–202.

(b) *Exception for child.* If necessary to prevent the separation of a child from the alien parent or parents, an immigrant child, including a child born in a dependent area, may be charged to the same foreign state to which a parent is chargeable if the child is accompanying or following to join the parent, in accordance with INA 202(b)(1).

(c) *Exception for spouse.* If necessary to prevent the separation of husband and wife, an immigrant spouse, including a spouse born in a dependent area, may be charged to a foreign state to